

- B. An examination of the recent winners of the A and B block broadband PCS auctions further demonstrates that no additional mandatory roaming obligations are necessary.**

In addition to the above analysis, an examination of the winning bidders of the A and B block broadband PCS auctions counsels against the need for further regulatory involvement. Even the most cursory review of the winning PCS bidders demonstrates that current cellular providers will also be providing PCS services.<sup>49</sup>

The cellular experience conclusively demonstrates that private negotiations are sufficient to ensure ubiquitous roaming service. Moreover, as consumer demand for roaming service is high, good business judgment counsels in favor of making such agreements. As the majority of the current A and B block auction winners are familiar with and satisfied with private negotiations, regulatory intervention is unwarranted.

- C. The current system of private negotiations for roaming services already serves to protect CMRS customers from anti-competitive behavior.**

Moreover, the flexibility of Rule 22.901 will also protect CMRS customers against fraudulent conduct. Additional regulation would be superfluous as the current regime already has the necessary mechanisms in place to protect the public interest.

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<sup>49</sup> See FCC Public Notice, "Commercial Mobile Radio Services Information: Announcing the Winning Bidders in the FCC's Auction of 99 Licenses to Provide Broadband PCS in Major Trading Areas; Down Payment Due March 20, 1995" (rel. March 13, 1995).

In response to market realities and current technological limitations carriers routinely must suspend roamer services for a limited period of time between city pairs to protect customers against fraud.<sup>50</sup> Under the current standard, the necessary suspensions are accomplished efficiently, and consumers are thereby protected, without the need for regulatory intervention.

Moreover, in a few instances, home carriers have withheld roaming agreements to protect their customers against roamer traps, i.e., CMRS operators who unreasonably overcharge. Without the ability to refrain from negotiating roaming agreements with providers that impose excessive charges, both the home carrier and the customer are at risk. In sum, the record demonstrates that regulatory intervention with respect to roaming agreements is simply unnecessary.

### **III. THE COMMISSION SHOULD EXTEND CELLULAR RESALE OBLIGATIONS TO ALL CMRS PROVIDERS.**

- A. As a matter of regulatory parity, and consistent with competitive concerns, all CMRS providers should be subject to resale obligations.**

CTIA concurs with the Commission's tentative conclusion that the cellular resale obligations should be extended to all CMRS providers.<sup>51</sup> Regulatory parity concerns dictate such a result. Moreover, there are simply no technical issues precluding those

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<sup>50</sup> See, e.g., Mobile Satellite Reports, December 5, 1994 ("Cellular One affiliate in Washington-Baltimore has temporarily suspended roaming service in N.Y. and Northern N.J. to battle 'extremely high amount of fraud' detected.")

<sup>51</sup> Second Notice at ¶ 83

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Interconnection and Resale Obligations	)	CC Docket No. 94-54
Pertaining to Commercial Mobile	)	
Radio Services	)	

**ENTERED**

**COMMENTS OF AT&T CORP.**

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interconnection requirements would frustrate the federal interest in national mobile service.<sup>46</sup>

## **II. Roaming Services Will Best Develop Through Market Alliances**

The Commission correctly notes that with regard to the availability and pricing of roaming service, "all CMRS providers will respond by implementing nationwide seamless roaming networks and by offering roaming service to interested subscribers."<sup>47</sup> As in the case of CMRS-to-CMRS interconnection CMRS competitors have a strong, simple incentive to enter into roaming agreements when they are mutually beneficial: they will lose roaming revenues if they do not. CMRS providers therefore have every motivation without government mandate to develop feature-rich roaming capabilities that will support a national seamless wireless infrastructure. Even the smallest rural CMRS providers will pursue roaming alliances because they will have the benefit of receiving revenues from proportionately greater numbers of roaming customers from the larger CMRS providers. Likewise, large CMRS providers will not shun smaller companies because in many cases roaming on the smaller company's system will be necessary to fill gaps in nationwide coverage. Consequently, roaming capability is in every CMRS provider's interest.

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initiated after the enactment of new Section 332, is only the latest manifestation of California's efforts to impose interconnection obligations on cellular carriers. See Re-Regulation of Cellular Radiotelephone Utilities, 36 Cal.P.U.C.2d 464 (1990).

<sup>46</sup> See 47 U.S.C. § 332(c)(1)(B); House Report at 261. Even with respect to rates for LEC-to-CMRS interconnection, over which the Commission has conceded state jurisdiction, the Commission has stated its intention to preempt intrastate interconnection rates when they interfere with federal policy. See CMRS Second Report, 9 FCC Rcd. at 1497; Interconnection Order, 2 FCC Rcd. at 2913

<sup>47</sup> Second Notice at ¶ 56.

Despite these conclusions, the Commission has expressed a desire to monitor roaming in order to take steps to support roaming if necessary.<sup>48</sup> AT&T believes that the Commission need not scrutinize roaming agreements, nor should it promulgate formal technical roaming standards. As the Commission recognizes, the cellular carriers themselves have developed and implemented the IS-41 roaming standard and the backbone network architecture necessary to provide ubiquitous, seamless roaming service.<sup>49</sup> The implementation of IS-41 demonstrates that government intervention is not necessary to promote the kind of national wireless infrastructure envisioned by the Commission.

If the Commission believes in the future that roaming should be mandated, it should not impose any standards other than "manual" roaming.<sup>50</sup> Mandating more complicated roaming arrangements would undermine a CMRS provider's ability to implement a nationwide seamless roaming plan. There are several costs associated with government-mandated standards. For example, government entities might not have complete information about complex roaming requirements and might therefore choose the wrong standards. Government standards may also reduce the industry's incentive to develop superior standards. As evidenced by the implementation of the IS-41 standard, CMRS providers already have incentives to provide for more complicated roaming arrangements. Complex roaming features have been and continue to be developed based largely on customer preference, need, and protection against cellular fraud. Further evolution of roaming standards would be

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<sup>48</sup> Id. at ¶ 54.

<sup>49</sup> Id. at ¶ 55.

<sup>50</sup> Manual roaming is the least complex type of roaming available. Manual roaming does not incorporate advanced features such as fraud prevention or customer verification.

difficult for the Commission to anticipate. There is no need or justification for intervening in this ongoing process.<sup>51</sup>

### **III. Resale Obligations Should be Imposed Uniformly on All CMRS Providers**

Congress's principal purpose in amending Section 332(c) of the Act was "to establish a Federal regulatory framework to govern the offering of all commercial mobile services."<sup>52</sup> Congress was aware that providers of what were, in fact, comparable services were subject to differing regulatory requirements, and sought to promote regulatory parity.<sup>53</sup> While Congress also recognized that differences among services and market conditions might warrant dissimilar regulation,<sup>54</sup> the clear thrust and intent of Congress was to avoid differential regulation of CMRS providers

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<sup>51</sup> In connection with roaming issues, the Commission seeks comment on what type of subscriber database access is necessary to support roaming service. Second Notice at ¶ 59. CMRS providers do not need access to databases to support roaming at all unless they are providing seamless roaming. Seamless roaming enables customers to make and receive calls without taking any action other than turning on their mobile phones. Id. at ¶ 51 n.84. The Commission has not and should not require seamless roaming, but should let the marketplace determine which type of roaming is most efficient. Because database information is private and proprietary and should only be obtained when it is mutually beneficial for both CMRS providers, the Commission should therefore not require any subscriber database access to support roaming.

Finally, the Commission requests comment on the regulatory treatment of PCS subscribers who roam in cellular service areas. Id. at ¶ 57. Dual-band telephones will enable PCS customers to appear to cellular switches as if they were cellular customers. The Commission should not place restrictions on this type of roaming because PCS subscribers will obtain access to both PCS and cellular systems, and both PCS and cellular systems will benefit from the additional revenues obtained from cross-service roaming.

<sup>52</sup> Conference Report at 490.

<sup>53</sup> House Report at 260. See also CMRS Second Report, 9 FCC Rcd at 1420.

<sup>54</sup> Conference Report at 491.

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In the Matter of )  
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Interconnection and Resale )  
Obligations Pertaining to )  
Commercial Mobile Radio Services )

CC Docket No. 94-54

To: The Commission

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**COMMENTS OF BELL SOUTH**

BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Cellular Corp. (collectively "BellSouth"), by their attorneys, hereby submit these comments in response to the Commission's *Second Notice of Proposed Rule Making*, FCC 95-149 (Apr. 20, 1995) ("SNPRM"), summarized, 60 Fed. Reg. 20949 (Apr. 28, 1995) in this docket.

**SUMMARY**

BellSouth supports the Commission's tentative conclusion that under present market conditions, it is not necessary to impose a general CMRS-to-CMRS interconnection obligation at this time. Moreover, the Commission should refrain from adopting general CMRS roaming policies and should preempt states from regulating CMRS-to-CMRS interconnection.

BellSouth also agrees with the Commission's tentative conclusion that all CMRS licensees should be subject to a resale obligation. However, the Commission should allow licensed CMRS providers to restrict resale by facilities-based competitors once the competitor becomes operational or has been authorized to provide service for three years. Unless such resale is restricted, facilities-based competitors have a disincentive to rapidly build-out their systems, which is contrary to the public interest and the Commission's goal of efficient spectrum use. Finally, BellSouth supports the Commission's rejection of the switched resale proposal.

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COMMENTS OF BELL ATLANTIC MOBILE SYSTEMS, INC.

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Its Attorneys

Dated: June 14, 1995



III. ROAMING STANDARDS SHOULD NOT BE ADOPTED.

The Commission finds that the present record also does not support adopting rules governing roaming service. Second NPRM at ¶ 56. This finding is correct. There is no more justification for imposing roaming standards than there is in setting specific interconnection requirements. Attempting to do so would be seeking a solution for a problem which does not exist.

The record shows no evidence of refusals to enter roaming agreements. To the contrary, carriers demonstrate that it is in their economic interest to enter into roaming agreements. They have in fact developed both national and international roaming arrangements and standard roaming agreements to provide seamless wireless service to the public. Second NPRM at ¶¶ 49-51. Roaming prices paid by cellular customers have been steadily declining. These facts indicate a functioning competitive market in no need of government intrusion.

Moreover, precisely how the Commission would craft roaming standards is problematic. The ways in which PCS, cellular, SMR and other system will interact, whether through roaming or interconnection, are rapidly evolving. Standards set today may be inapplicable to the market next year, or may even impair the development of new roaming arrangements. As with interconnection, should the market evolve in ways which suggest that there is "a clear-cut need" for regulatory intervention in roaming, the Commission can then step in.

For the same reasons that states should be preempted from setting interconnection standards, they should be preempted from imposing roaming obligations. While much roaming traffic is interstate and would thus be outside state jurisdiction in any event, there are numerous states within which different carriers provide service and thus may enter roaming agreements. Those agreements should respond to the market, not be regulated by state-prescribed requirements.

IV. THE RULE PROMOTING RESALE SHOULD BE  
EXTENDED TO ALL CMRS CARRIERS.

The Commission asks for comment on whether its cellular resale rule should be extended to all CMRS providers, and if so, whether that rule should also be limited to allow resale restrictions on facilities-based competitors. Second NPRM at ¶ 83-87. Bell Atlantic Mobile supports the imposition of the current resale obligation on all CMRS carriers.

The Commission requires cellular licensees to offer their service to resellers (except to licensed competitors which have held authorizations for at least five years) without restriction or discrimination. 47 C.F.R. § 22.901(e). It now tentatively concludes that the benefits of the cellular resale rule are no less valid for all CMRS carriers than they are for cellular carriers alone. It cites those benefits as follows: "Prohibiting resale restrictions provides a means of policing price discrimination, mitigating head-start advantages among licensees, and providing some degree of secondary market competition." Second NPRM at ¶ 83. These benefits are just as relevant to PCS, SMR or

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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

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To: The Commission

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**REPLY COMMENTS OF PCS PRIMECO, L.P.**

PCS PRIMECO, L.P. ("PrimeCo"), a winning bidder for eleven MTA licenses in the A/B Band auction, hereby files the following reply comments in the matter captioned above

**L CMRS TO CMRS INTERCONNECTION**

In its Second Notice of Proposed Rule Making ("*Second NPRM*"), the Commission tentatively concluded that there was insufficient evidence to support the imposition of a general interstate interconnection obligation. Furthermore, because all CMRS carriers can interconnect with each other through the LEC landline network, the FCC did not regard market conditions as indicating a need for a generalized CMRS interconnection requirement at this time.<sup>1</sup>

PrimeCo's comments to the *Second NPRM* supported the Commission's proposal not to impose a general CMRS interconnection obligation because, in PrimeCo's view, such regulation would be inappropriate during this time of significant change in the CMRS industry. Nothing contained in the comments of the other parties to

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<sup>1</sup> *Second NPRM* at ¶ 29.

## II. ROAMING

A number of commenters disagreed with the Commission's tentative conclusion that the record of this proceeding did not warrant adopting rules governing service.<sup>7</sup> For its part, PrimeCo urges the Commission to adopt its tentative conclusion in the final order

The technical issues surrounding intersystem CMRS roaming are formidable. While cellular systems began with a common AMPS standard that facilitated intersystem cellular roaming, most of the other CMRS systems have not or will not begin service in this fashion.<sup>8</sup> As a result, these systems are generally not technically compatible with each other, and most commenters recognized the Commission's inability to create a regulatory solution for this technical dilemma.<sup>9</sup> Instead, many commenters focused on access to the cellular carriers' AMPS networks as a solution to their roaming problem.<sup>10</sup>

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<sup>7</sup> See, e.g., Comments of American Personal Communications ("APC") at 7-9; Comcast Cellular Communications, Inc. ("Comcast") at 20-21.

<sup>8</sup> For example, some of the new PCS systems will use a variation of GSM while others will use CDMA or some other modulation scheme. No one of these systems is compatible with the others. And note, too, that as the cellular carriers move to digital radio, they are choosing incompatible systems as well: some, like McCaw, have opted for TDMA systems while others have chosen CDMA.

<sup>9</sup> But, in a statement reminiscent of Canute before the waves, one commenter states that "[r]oaming must be mandated." GCI at 5.

<sup>10</sup> "... Commission rules must ensure that an Advanced Mobile Phone Service (AMPS) provider that offers roaming to other CMRS providers must provide roaming to PCS licensees on reasonable terms and conditions." Comments of APC at 9. See also, Comments of Comcast at 20-21.

In its comments, PrimeCo stated its belief that no customer with a terminal capable of receiving service from an AMPS network should be denied access so long as the customer's home carrier would abide by the industry's roaming conventions and enter into the necessary intercarrier agreements. However, PrimeCo also believes that there is no need for the Commission to institute rules to regulate this system beyond those already in place. First, there is no reason to suppose that cellular carriers will refuse roaming access to the customers of new carriers, particularly insofar as they represent a potentially significant source of new revenue. Second, while AMPS networks will probably persist in some markets for years to come, the trend is clearly away from analog technology and to digital technology. In PrimeCo's view, cellular carriers ought to be free to make changes to their networks as they see fit and without a regulatory burden that effectively makes them a carrier of last resort for the CMRS industry. Eventually, all CMRS providers will have to confront the roaming problem without the crutch of a ubiquitous AMPS network. Cellular carriers should not be saddled with an obligation — whether implied or express — to keep an obsolescent system in place until the industry settles upon a roaming solution.

### III. RESALE

In the *Second NPRM*, the Commission tentatively decided not to adopt the so-called reseller switch proposal, under which CMRS providers would be required to allow resellers to install their own switching equipment between the mobile telephone